

## REMARKS

### **1. *Informalities***

Drawings. The applicant appreciates the Examiner pointing out the deficiency in the drawings. In response, applicant has amended the drawings to include the reference number for the aperture 66. Applicant is submitting a replacement drawing sheet in compliance with 37 C.F.R. § 1.121(d).

### **2. *Claim Rejections -- 35 U.S.C. § 112***

Claims 3, 10 and 24-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, applicant has amended the claims to comply with 35 U.S.C. § 112. Specifically, applicant has amended claim 3 to provide proper antecedent basis for “said attachment means” recited in lines 2-3.

Applicant has amended claim 10 to change its dependency upon claim 2 rather than claim 1, as claim 2 comprises proper support for the “crank support means” recited in claim 10.

Applicant has amended claim 24 to provide proper antecedent basis for “said attachment means” recited in line 1.

Applicant has amended claim 25 to provide proper antecedent basis for “said attachment means” recited in line 1.

### **3. *Claim Rejections -- 35 U.S.C. § 102***

Claims 1-4, 7-19, 21-23, 25-27 and 30-32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,782,442 (hereinafter referred to as “the Kwak patent” or “Kwak”).

In response, applicant has amended independent claims 1 and 21 to specifically recite that the flexing crank handle is configured to flex and displace *in any direction* in response to a load acting thereon. This language is properly supported in the specification, is not new matter, and is intended to clarify the advantageous function of the flexing crank handle in that it is capable of flexing in more than one direction and in

more than one plane. With reference to the specification, it is stated, "...embodiments of the present invention provide vector flexing, which allows flexing crank handle 80 to move or flex in any direction with respect to shaft 14." See Specification pg. 19, ln. 15-16.

On the other hand, Kwak teaches and discloses an ice screw having a handle 60 that is pivotally coupled to the hanger 40, wherein the handle may be pivoted to a crank or open position and to a folded or closed position. See Kwak col. 4, ln. 32-39. There is nothing in Kwak to teach or suggest that the handle 60 may flex, which applicant submits is different than flexing due to the presence of all rigid components making up the handle 60. Still further, there is nothing in Kwak that teaches or suggests that the handle 60 is capable of pivoting or flexing in any direction or in any plane. Conversely, the handle 60 is only capable pivoting between a folded and unfolded position in a bi-directional manner only and along a single plane. Based on this, applicant submits that Kwak does not anticipate claims 1 and 21 of the present invention, particularly as amended.

Rejected dependent claims 2-4, 7-19, 22-23, 25-27, and 30-32 place further limitations on what is otherwise argued allowable subject matter. Therefore, Applicant respectfully submits that these claims stand in a condition for allowance.

Based on the foregoing, Applicant respectfully requests that Kwak does not anticipate any of the claims of the present invention. As such, Applicant respectfully requests that the rejection under 35 U.S.C. § 102 be withdrawn and the application reconsidered.

#### **4. *Claim Rejections – 35 U.S.C. § 103***

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Application Nos. 5,782,442 (hereinafter referred to as "the Kwak reference" or "Kwak") in view of U.S. Application Publication No. 2002/0074443 to Murdock, et al. Applicant appreciates the concerns raised by the Examiner, but respectfully submits that in light of the amendment to the claims as set forth above and the arguments presented below, neither Kwak nor Murdock, either individually or collectively, render the claims of the present invention obvious.

In response, applicant submits that Kwak does not teach or suggest a flexing crank handle configured to flex in any direction in response to a load as recited in amended claim 1. The arguments set forth above with respect to this point are incorporated herein. In addition, applicant submits neither Kwak nor Murdock contain any suggestion, express or implied, that they be combined, or that they be combined in the manner suggested by the Examiner, to arrive at the elements recited in claims 1 and 20. The Murdock reference specifically teaches and discloses a strap winding device. Not surprisingly, there is nothing in Murdock to suggest that the handle configuration, and particularly the sleeve and bearing configuration, may be applied to the crank handle of an ice screw.

Claim 33 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kwak. In response, applicant submits that claim 33 has been amended to specifically recite that the flexing crank handle is configured to flex and displace *in any direction* in response to a load acting thereon. In light of this amendment, and pursuant to the arguments set forth above with respect to the rejection of claims 1 and 21, applicant submits that Kwak does not teach or suggest all of the elements of claim 33, nor use of these elements in method. Specifically, Kwak does not teach or suggest a flexing crank handle capable of flexing in any direction with respect to the shaft of the ice screw. Rather, Kwak teaches a folding or pivoting crank handle that pivots in a bi-directional manner along a single plane.

Based on the foregoing, Applicant submits that the prior art does not render the claims of the present invention obvious, particularly as amended to recite more specific and definite limitations. As such, Applicant respectfully requests that the rejection under § 103 be withdrawn and that the claims of the application be reconsidered.

CONCLUSION

Based on the foregoing, Applicant respectfully submits that the deficiencies in the application have been corrected and that the proposed claims are neither anticipated nor rendered obvious by the prior art references cited by the Examiner. As such, Applicant believes that the claims are now in a condition for allowance, and action to that end is respectfully requested.

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 26<sup>th</sup> day of September, 2005.

Respectfully submitted,

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